

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B06

PLR-100819-15

Date:

July 01, 2015

In Re:

LEGEND

Taxpayer=

Law Firm=

Accounting Firm=

Corporation=

Shareholder A=

Shareholder B=

Shareholder C=

Shareholder D=

Year 1=

Date 1=

Date 2=

Date 3=

Dear :

This responds to a letter dated December 19, 2014, supplemented by letters dated April 29, 2015, and June 24, 2015, submitted by Law Firm requesting that the Internal Revenue Service ("Service") grant Taxpayer an extension of time under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to file Form 4876-A ("Election To Be Treated as an Interest Charge DISC") for Taxpayer's first taxable year.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and Law Firm and accompanied by affidavits and penalty of perjury statements executed by appropriate parties. This office has not verified any of the materials submitted in support of the request for rulings. It is subject to verification on examination.

FACTS

Taxpayer is a domestic corporation and was formed on Date 1 for the sole purpose of qualifying and operating as an interest charge domestic international sales corporation ("IC-DISC"). Taxpayer operates under a commission arrangement with Corporation. Taxpayer is wholly owned by Shareholder A, and Corporation is owned by Shareholders B, C, and D. The beneficial owners of Shareholder A are beneficial owners of at least half of the stock of Corporation.¹

In Year 1, Law Firm and Accounting Firm advised the beneficial owners of Shareholder A of the benefits associated with operating an IC-DISC. After deciding to form Taxpayer as an IC-DISC, Corporation retained Law Firm to organize Taxpayer as an IC-DISC and prepare the required incorporation documents. Taxpayer relied on Accounting Firm and Law Firm to organize and to prepare all documents and filings needed to establish Taxpayer as an IC-DISC.

Due to a miscommunication, Accounting Firm believed that Law Firm filed the Form 4876-A on Taxpayer's behalf. However, Law Firm believed that Accounting Firm filed the Form 4876-A. As a result, a Form 4876-A for Taxpayer was not filed.

Believing all the requirements to conduct business and be treated as an IC-DISC for its first taxable year were satisfied, Taxpayer began operating as an IC-DISC on Date 2. On Date 3, which occurred before Taxpayer's tax return for its first taxable year was due, Accounting Firm and Law Firm discovered that a Form 4876-A for Taxpayer had not been filed.

Upon discovery of this error, and in order to operate as an IC-DISC beginning on Date 2, Taxpayer requested a ruling granting an extension of time to file Form 4876-A for its first taxable year.

LAW AND ANALYSIS

Section 992(b)(1)(A) of the Internal Revenue Code (the "Code") provides that an election by a corporation to be treated as a DISC² shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Section 992(b)(1)(B) of the Code provides that such election shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are

¹ Taxpayer and Corporation are owned or controlled directly or indirectly by the same interests within the meaning of Treas. Reg. § 1.482-1.

² As used in this letter, the terms "IC-DISC" and "DISC" have the same meaning.

shareholders in such corporation on such first day of the first taxable year for which such election is effective consent to such election.

Temporary Treasury Regulation § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A and that a corporation electing to be treated as an IC-DISC for its first taxable year shall make its election within 90 days after the beginning of that year.

Treasury Regulation § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner's discretion, may grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I.

Treasury Regulation § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treasury Regulation § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

Based on the facts and representations submitted with Taxpayer's ruling request, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file Form 4876-A. Such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year.

The granting of an extension in this ruling letter is not a determination that Taxpayer is otherwise eligible to make the election or to claim IC-DISC status or benefits. See Treas. Reg. § 301.9100-1(a). In addition, we express no opinion as to whether the commissions (or portions thereof) paid to Taxpayer by Corporation may constitute taxable gifts. See, e.g., Rev. Rul. 81-54, 1981-1 C.B. 476. Taxpayer should attach a copy of this ruling letter to its Federal income tax return for the taxable years to which this letter applies.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Except as expressly provided

herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

Pursuant to a Power of Attorney on file in this office, copies of this ruling letter are being furnished to your authorized representatives.

Sincerely,

Joseph Dewald
Senior Technical Reviewer, Branch 6
Office of Associate Chief Counsel (International)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes

cc: